

03-21532

WCH:ld

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

CIV - ALTONAGA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TWELVE THOUSAND FOUR
HUNDRED AND FORTY ONE
DOLLARS (\$12,441.00) IN U.S.
CURRENCY,

Defendant.

FILED BY
JUN -5 PM 4:10
MAGISTRATE JUDGE
BANDSTRA
U.S. DISTRICT
COURT
OF FLA - MIA

COMPLAINT FOR FORFEITURE IN REM

Plaintiff, United States of America, hereby files this Complaint for Forfeiture in Rem and states:

1. This is a civil action for forfeiture in rem of TWELVE THOUSAND FOUR-HUNDRED AND FORTY ONE DOLLARS (\$12,441.00) IN U.S. CURRENCY ("defendant currency").
2. This Court has jurisdiction and venue over this action pursuant to 28 U.S.C. §§ 1345, 1355(a), (b)(1), 1395 and 2461, in that the defendant currency was seized in the Southern District of Florida and will remain within the District during the pendency of this action.
3. The United States seeks forfeiture of the defendant property pursuant to 21 U.S.C. § 881(a)(6) arising from violations of 21 U.S.C. § 801 et seq..

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FACTS

4. On December 17, 2002, at approximately 9:52 P.M., at the International Café, 7137 West Flagler Street, Miami Florida, agents of the Drug Enforcement Administration ("DEA") were conducting the arrest of two individuals, Everardo De Jesus Soto-Arenas and Francisco Javier Lopez-Lopez for conspiracy to commit extortion arising out of narcotic trafficking.

5. Present at the café at the time of the arrests and apparently in the company of those arrested was an individual by the name of Helman Felipe Mendoza-Castro.

6. The DEA agents, advised Mendoza-Castro of his Constitutional rights, after which he agreed to cooperate with the agents.

7. Mendoza-Castro first told the agents that he did not know either Everardo De Jesus Soto-Arenas and Francisco Javier Lopez-Lopez but subsequently admitted knowing both of them.

8. He then told the agents that he had come to Miami after visiting his sister in Houston, Texas, to buy gifts for the holiday season but then stated the reason he came to Miami was to meet an individual by the name of Javier Rojas who was in the import/export business.

9. Mendoza-Castro next said that the reason he came to Miami was to buy equipment for his parents' pig farm in Colombia and finally advised the agents that the reason for his trip to Miami was so that he could go visit the "parks in Orlando."

10. After concluding this interview, the agents drove Mendoza-Castro to his hotel room, located at the Candlewood Suites, 8855 N.W. 27 th Street, #315, Miami, Florida. Upon consenting to a search of his room, the agents discovered \$12,441.00 in United States currency in Mendoza-Castro's briefcase which he stated he brought from Colombia to purchase equipment for his parents pig farm.

11. Mendoza-Castro when asked the source of the currency, explained that \$7,000.00 was given to him by his sister in Houston, Texas to be delivered to their parents in Colombia. Suspecting that the currency was involved in drug trafficking, the agents seized it.

12. On December 20, 2002, DEA contacted Mendoza-Castro and requested that he be present at DEA Headquarters in Miami, Florida, where he witnessed a Florida Highway Patrol K-9 alert to the presence of narcotics on the currency on two separate occasions.

13. Between the first and second dog alert to the currency, Mendoza-Castro voluntarily told the agents that part of the currency may have come into contact with some cocaine while drug traffickers were crossing his parents' pig farm in Colombia. Mendoza-Castro failed to indicate how the cocaine traffickers came into contact with his money.

14. On December 20, 2002, the same day as the dog alerted to the presence of narcotics on the currency, one of the DEA agents spoke with Mendoza-Castro's sister in Houston, Texas by telephone. She advised the agent that she had given Mendoza-Castro approximately \$7,500.00 to take to their parents in Colombia. She said the money came from her employment. She also told the agents that she had advised Mendoza-Castro not to associate with individuals involved in drug trafficking.

15. On January 3, 2003, Mendoza-Castro's sister telephoned one of the DEA agents investigating this case and told the agent, contrary to her previous statement to the agent regarding the currency, that she had not given any money to Mendoza-Castro to take to their parents in Colombia and in fact, she had visited their parents in Colombia prior to Mendoza-Castro's visit to see her in Houston and, at that time, had given their parents \$4,500.00.

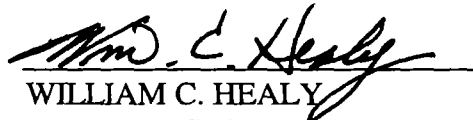
16. Based on the foregoing, the defendant currency constitutes moneys, negotiable instruments, securities or things of value furnished or intended to be furnished in exchange for controlled substances in violation of 21 U.S.C. § 801, et seq., or proceeds traceable thereto or used or intended to be used to facilitate any violation of Title 21 § 801 et seq., and is thereby forfeit to the United States pursuant to 21 U.S.C. § 881(a)(6).

WHEREFORE, Plaintiff United States of America requests that a warrant of arrest be issued for the defendant property; that the Court direct any and all persons having any claim to the defendant property to file and serve their Verified Claims and Answers as required by 18 U.S.C. § 983(a)(4) and the Supplemental Rules for Certain Admiralty and Maritime Claims, or suffer default thereof, together with such other and further relief as may be just; that the defendant property be condemned and forfeited to the United States of America for disposition according to law; and that the Plaintiff be granted such other relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Respectfully submitted,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By:




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VERIFICATION

I, JOSEPH FERNANDEZ, Special Agent, Drug Enforcement Administration, hereby declare under penalty of perjury as provided by 28 U.S.C. § 1746, that the foregoing Complaint for Forfeiture in Rem is based upon information known to me, and that the facts alleged therein are true and correct to the best of my knowledge and belief.

EXECUTED, on this 5th day of June 2003.


JOSEPH FERNANDEZ
SPECIAL AGENT
DRUG ENFORCEMENT ADMINISTRATION

CIVIL COVER SHEET

The JS-44 civil cover sheet and by law, except as provided by the use of the Clerk of Court for the

replace nor supplement the filing and service of pleadings or other papers as required by the Federal Rules of Civil Procedure, 1993, as required for the

I. (a) PLAINTIFFS

UNITED STATES OF

CIV - ALTONAGA

DEFENDANTS

TWELVE THOUSAND FOUR HUNDRED AND FORTY ONE DOLLARS (\$12,441.00) IN UNITED STATES CURRENCY,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

Date

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

United States Attorney's Office
Attn: William C. Healy, AUSA
99 N.E. 4th Street, Suite 700
(305) 961-9438

ATTORNEYS (IF KNOWN)

MAGISTRATE JUDGE
BRIAN J. STAFF

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE MONROE, BROWARD, PALM BEACH, MARTIN, ST. JAMES, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT

(PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
B SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))		FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609		

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTION UNLESS DIVERSITY.)

21 U.S.C. § 881

LENGTH OF TRIAL

via 3 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

6-5-3

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE